

*Sp 3 12  
cont.*

an aqueous composition which in addition to water comprises at least one solvent selected from the group consisting of lower alcohols, polyols, sugars and their mixtures.--

*A3*

Please add new Claim 23 as follows:

--23. (Newly Added) A cleansing composition, which comprises:

at least one phosphate surfactant, at least one foaming nonionic surfactant and at least one cationic polymer devoid of saccharide groups and selected from the group consisting of (1) homopolymers and copolymers of acrylic acid and methacrylic acid esters or amides, (2) alkyldiallylamine or dialkyldiallylammonium polymers, (3) quaternary polymers of vinylpyrrolidone and imidazole or of vinylimidazole or methylvinylimidazole and (4) vinylpyrrolidone polymers comprising methacrylamidopropyldimethylamine or methacrylamidopropyltrimethylammonium units in an aqueous medium, the composition having the appearance of a transparent gel.--

#### REMARKS

Claims 1-22 and newly added Claim 23 are pending in the application.

Reconsideration is respectfully requested.

The present invention relates to a foaming cleansing composition which can be removed from the skin with water and which has the appearance of a transparent gel.

#### Claim Amendments

Claim 13 has bee amended by deleting the cationic polymer identified therein as polyquaternium-10 because this cationic polymer, in fact, is a cationic polymer which contains saccharide groups. In fact, it should be noted that polyquaternium-10 is not

mentioned in the specification at pages 9-12 where a number of polyquaternium cationic polymers are mentioned all of which are devoid of saccharide groups. Accordingly, a correction has been made to Claim 13 which deletes an incorrect surfactant material.

Newly added Claim 23 has been added which is a combination of Claim 1 and the cationic polymers disclosed on pages 9-11 of the specification. Thus, the claim does not introduce new matter into the case.

Entry of the claim amendments is respectfully requested.

#### Claim Rejection, 35 U.S.C. 112

The rejection of Claim 17 on non-reference grounds is believed obviated by the amendment to the claim where an aqueous composition containing a solvent component is now described. Support for the amendment may be found at page 12, lines 13-19. Entry of the amendment is respectfully requested.

#### Invention

Foaming detergent aqueous gels for cleansing of the skin are well known, and their cleansing action is attributable to the surfactants which comprise the formulations. They suspend the greasy residues and pigments from make-ups found on the skin. As such the gels are effective and pleasant to use. Transparent cleansing gels are particularly of importance because transparency is a symbol of cleanliness and very often generate light airy foams. However, upon rinsing of the skin, the skin is often slippery and the sensation of a clean skin is no longer experienced because of the presence of film-forming residues on the skin which are difficult to remove. There is therefore a continuing need for a foaming aqueous gel which

does not contain soap and which has good foam quality while having good rinsing quality and good eye and skin tolerance.

The discovery of the present invention is a cleansing composition of the foaming transparent type which exhibits good cosmetic properties and good tolerance properties. The present cleansing composition comprises:

at least one phosphate surfactant, at least one foaming nonionic surfactant and at least one cationic polymer devoid of saccharide groups in an aqueous medium, the composition having the appearance of a transparent gel.

Prior Art Rejection, 35 U.S.C. 103(a)

Claims 1-22 stand rejected based on 35 U.S.C. 103(a) as obvious over Lukenbach, U.S. Patent 6,090,773. This ground of rejection is respectfully traversed.

At the outset of the discussion concerning patentability, applicants believe it is essential to establish that the present invention and the conditioning detergent composition of Lukenbach are directed to substantially different cleansing formulations. As is clear from the disclosure of Lukenbach, a conditioning shampoo is disclosed therein which is a combination of a surfactant portion and a conditioning portion. As such the surfactant portion comprises three different surfactant components which are a nonionic surfactant, an amphoteric surfactant and an anionic surfactant, while the hair conditioning component comprises at least two of a cationic cellulose derivative, a cationic guar derivative and a homopolymer or copolymer of a cationic monomer. Further, the hair conditioning formulation of the patent apparently preferably contains one or more pearlescent or opacifying agents (column 13, lines 19-28). On the other hand, the cleansing formulation of the present invention (i) is **not** a hair

treating composition, (ii) does **not** comprise a three ingredient surfactant component, (iii) does **not** comprise an at least two component hair conditioning system and (iv) is **not** pearlescent or opaque, but rather is **transparent**. On the basis of this brief summary alone of the very important distinctions between the presently claimed transparent skin cleansing gel and the hair cleansing formulation of the patent, applicants submit that one of skill in the art would in no way be motivated to make substantial changes to the composition of the patent to prepare, not a hair cleansing composition, but instead a skin cleansing formulation which is a transparent gel.

Applicants believe that the compositional distinction between the present cleansing formulation and that of the cited patent can not be overemphasized because the two compositions are, in fact, quite different. Whereas the present formulation is based on a **single** effective combination of three different surfactants which provide effective cleansing of the skin and at the same time provide a very desirable foaming transparent gel, Lukenbach discloses a specific **two** component formulation with each of the components having a separate and distinct function from the other component of the composition. That is, one component has a skin and hair cleansing function and is the combination of three surfactants which are a nonionic surfactant, an amphoteric surfactant and an anionic surfactant (col 1, lines 35-29). The second component is distinctly different in that it has a hair conditioning function and is a formulation of at least two cationic conditioning polymers selected from the group of a cationic cellulose derivative, a cationic guar derivative and a homopolymer or copolymer of a cationic monomer. Thus the composition of the patent is an example of a “two-in-one” conditioning shampoo which has an advantage over more conventional methods of cleansing and conditioning the hair by separate treatment of the hair first with a cleansing

formulation followed by conditioning of the hair with a conditioner. Examination of the specification of the patent from the viewpoint of the presently claimed cleaning composition, indicates that the at least one phosphate surfactant and the nonionic surfactant components of the present composition are surfactants which are within the scope of the formulation of the **cleansing component** of the composition of the reference, while the cationic polymer devoid of saccharide groups component of the present composition only in some way corresponds to or is closest to the disclosure of the patent at the point of the three cationic polymer ingredients of the conditioner of the patent. However, two of the cationic polymer ingredients of the patent are **not** devoid of saccharide groups, but instead are polymeric materials which **contain** saccharide units, because cellulose is a polymer of glucose monomer units and the guar ingredient is based on a polymer which contains galactose and mannose monomer units. The third cationic component expands the scope of cationic polymeric material in the conditioner to a (meth)acrylate or (meth)acrylamide cationic polymer, which is a cationic polymer devoid of saccharide units. From this description of the patent disclosure it is clear that in order for one of skill in the art to arrive at the specific combination of surfactants of the presently claimed invention, one of skill in the art would have to **grossly** distort the teachings of Lukenbach in order to arrive at the present composition in view of the selections of ingredients which would have to be made from each of the two functionally different components of the two-in-one shampoo/conditioner disclosed in the patent. In fact, it is clear that in order for the Examiner to take the position that Lukenbach suggests the present invention, one of skill would have to use the teachings of the present invention in hindsight which is manifestly improper.

Further with respect to the matter of selecting surfactant materials from the many

disclosed in Lukenbach, applicants note that whereas, for the requirements of Lukenbach any one of many widely varying types of anionic surfactants can be employed in order to prepare the "surfactant component" of the composition of the patent, for the present composition, on the other hand, not just any anionic surfactant may be used, but rather, selectively and specifically, a **phosphate surfactant only** must be used in the present composition. There is not the slightest suggestion of a composition within the scope of the formulation embodiments of the reference in which a phosphate anionic surfactant is preferred. In fact, none of the Examples of the patent appear to disclose a formulation containing a phosphate anionic surfactant.

As to the feature of the present composition which requires a cationic polymer **devoid of saccharide groups**, the reference on the other hand teaches that in selecting at least two cationic polymers, for the purposes of the hair conditioning component of the formulation of the patent, virtually **any** cationic polymer may be used. In fact, a preferred cationic polymer of the patent is, in fact, a cationic polymer which contains saccharide moieties which is identified as "Polyquaternium 10" in column 11 of the patent. (At this point the Examiner is requested to note the discussion above concerning the correction of an error in Claim 13 which identifies polyquaternium 10 as a type of cationic polymer amongst other cationic polymers.)

The importance to the present invention in selecting a cationic polymer devoid of saccharide groups as a surfactant component as opposed to any other cationic polymer including polyquaternium 10, is evident from the comparative evidence provided in the attached Declaration (37 C.F.R. 1.132). The declaration provides a comparison of two formulations differing only in the most significant respect by containing polyquaternium 10

versus polyquaternium 7 (a cationic polymer devoid of saccharide groups). The results demonstrate most significantly that superior rinsing is exhibited by the composition of the invention containing polyquaternium 7 versus the comparative formulation which contains polyquaternium 10. Further, the gel embodiment of the invention is also more viscous as a gel than the polyquaternium 10 containing composition

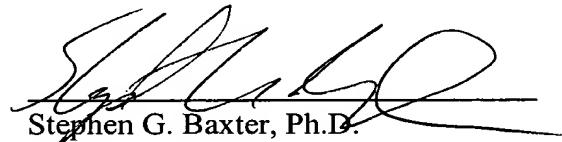
Applicants submit that the deficiencies of Lukenbach et al are neither overcome or improved by Dereian et al. Dereian et al, in fact, is of secondary interest because it only discloses a pumpable, concentrated aqueous surfactant composition which is based on alkyl phosphate ester salts which is useful in the cleansing of skin. At best, there may be a suggestion to use the alkyl phosphate ester salts taught in the patent as a substitute for the phosphate surfactant of the three component surfactant combination of the shampoo/hair conditioner of Lukenbach et al. However, such a substitution overcomes none of the many difficulties in attempting to hold the Lukenbach et al patent as suggesting the presently claimed invention. Accordingly, the obviousness ground of rejection is believed obviated and withdrawal of the same is respectfully requested.

Applicants concur with the citation of the remaining references as of interest to the present application.

It is now believed that the application is in proper condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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**MARKED-UP COPY OF AMENDMENT**  
**IN THE CLAIMS**

Please amend Claim 13 as follows:

--13. (Amended) The composition according to Claim 1, wherein the cationic polymer is selected from the group consisting of polyquaternium-5, polyquaternium-6, polyquaternium-7, [polyquaternium-10,] polyquaternium-11, polyquaternium-15, polyquaternium-16, polyquaternium-22, polyquaternium-28, polyquaternium-39, polyquaternium-44, polyquaternium-46, polyquaternium-47 and their blends.--

Please amend Claim 17 as follows.

--17. (Amended) The composition according to Claim 1, wherein the composition is an aqueous composition which in addition to water comprises at least one solvent selected from the group consisting of lower alcohols, polyols, sugars and their mixtures.--

Please add new Claim 23 as follows:

--23. (Newly Added) A cleansing composition, which comprises:  
at least one phosphate surfactant, at least one foaming nonionic surfactant and at least one cationic polymer devoid of saccharide groups and selected from the group consisting of (1) homopolymers and copolymers of acrylic acid and methacrylic acid esters or amides, (2) alkyldiallylamine or dialkyldiallylammonium polymers, (3) quaternary polymers of vinylpyrrolidone and imidazole or of vinylimidazole or methylvinylimidazole and (4) vinylpyrrolidone polymers comprising methacrylamidopropyltrimethylamine or methacrylamidopropyltrimethylammonium units in an aqueous medium, the composition having the appearance of a transparent gel.--